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10/019,269	12/28/2001	Axel Schumacher	R.35853	4016

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EXAMINER

SY, MARIANO ONG

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/019,269

Applicant(s)

SCHUMACHER, AXEL

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received:
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

1. The amendment filed on May 27, 2003 has been received.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites "that any reduction of the braking force is imperceptible" in lines 8-9. It is unclear with the word "imperceptible" as to what applicant is referring to.

Claim 9 recites "that any reduction of the force exerted is imperceptible" in lines 6-7. It is unclear with the word "imperceptible" as to what applicant is referring to.

Claim 20 recites "that any reduction of the braking force is imperceptible" in lines 9-10. It is unclear with the word "imperceptible" as to what applicant is referring to.

Claim 23 recites the limitation "the wheel brake assembly" in lines 1-2. It is unclear if applicant is referring to --the electric motor--.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 8-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Schenk et al. (U.S. Patent Number 5,090,518).

Re-claims 8, 10, 12, 14, 16, and 18 Schenk et al. discloses a method for actuating a wheel brake assembly, comprising the steps of (a) initially actuating the brake assembly in a tightening direction to cause a brake lining to be pressed against a brake body to establish a quasi-static terminal braking state, then (b) actuating the brake assembly for a brief period of time in a release direction opposite the tightening direction, and then (c) again actuating the brake assembly in the tightening direction, said brief period of time of the actuation in the release direction being selected to be so short that any reduction of the braking force is imperceptible; repeating steps (a) and (b); wherein steps (b) and (c) are repeated after a predetermined period of time after the onset of the re-tightening; wherein steps (b) and (c) are repeated when the brake assembly comes to a stop upon re-tightening; wherein number of repetitions of steps (b) and (c) is limited; wherein said brief period of time during which the brake assembly is actuated in the release direction is defined by a travel distance by which an actuating element of the brake assembly is moved in the release direction. The method recited is relatively broad and appears to read on the well-known anti-lock brake system of Schenk et al. wherein the brakes are actuated and released intermittently and/or repeatedly in a brief period of time so as the wheel does not slip or lock on different road surface conditions, see col. 2, lines 56-68 and col. 3, lines 1-20.

Re-claims 9, 11, 13, 15, 17, and 19 Schenk et al. discloses a method for actuating a mechanical system that pressed against the friction element is readable as involving friction and having a spring elasticity to increase a force exerted by the system beyond a force attainable in a quasi-static state, comprising the steps of (a) actuating the system for a brief period of time in a release direction and then (b) tightened, the period of time of the actuation in the release direction being selected to be so short that any reduction of the force exerted is imperceptible; repeating steps (a) and (b); wherein steps (a) and (b) are repeated after a predetermined period of time after the onset of the re-tightening; wherein steps (a) and (b) are repeated when the system comes to a stop upon re-tightening; wherein number of repetitions of steps (a) and (b) is limited; wherein said brief period of time during which the system is actuated in the release direction is defined by a travel distance by which an actuating element of the system is moved in the release direction. The method recited is relatively broad and appears to read on the well-known anti-lock brake system of Schenk et al. wherein the brakes are actuated and released intermittently and/or repeatedly in a brief period of time so as the wheel does not slip or lock on different road surface conditions, see col. 2, lines 56-68 and col. 3, lines 1-20.

Re-claims 20-25 Schenk et al. discloses a method for actuating an electromechanical wheel brake assembly having an electric motor 28,38, a brake actuator and means 34,44 connecting the motor to the brake actuator into a translational motion, the method comprising the steps of (a) initially actuating the motor in a tightening direction to cause a brake actuator to be pressed against a brake body to

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establish a quasi-static terminal braking state, then (b) actuating the motor for a brief period of time in a release direction opposite the tightening direction, and then (c) again actuating the motor in the tightening direction, said brief period of time of the actuation in the release direction being selected to be so short that any reduction of the braking force is imperceptible; repeating steps (a) and (b); wherein steps (b) and (c) are repeated after a predetermined period of time after the onset of the re-tightening; wherein steps (b) and (c) are repeated when the brake assembly comes to a stop upon re-tightening; wherein number of repetitions of steps (b) and (c) is limited; wherein said brief period of time during which the brake assembly is actuated in the release direction is defined by a travel distance by which an actuating element of the brake assembly is moved in the release direction. The method recited is relatively broad and appears to read on the well-known anti-lock brake system of Schenk et al. wherein the brakes are actuated and released intermittently and/or repeatedly in a brief period of time so as the wheel does not slip or lock on different road surface conditions, see col. 2, lines 56-68 and col. 3, lines 1-20.

6. Applicant's arguments filed on May 27, 2003 have been fully considered but they are not persuasive.

Examiner maintains the rejection is proper. The claim language of the method recited in claims 8, 9, and 20 are relatively broad and appear to read on the anti-lock brake system of Schenk et al., see col. 2, lines 56-68 and col. 3, lines 1-20. The method for actuating a brake assembly, as claimed, is readable on a typical anti-lock brake system

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wherein the brakes are actuated and released intermittently and/or repeatedly in a brief period of time, so as the wheel will not slip or lock on different road surface conditions and to maintain a constant deceleration. In claim 9 Schenk et al. brake system having a mechanical connection that pressed against the friction element which is readable as having a spring elasticity which is a relatively broad term. Applicant's argument is more specific than the claim language.


7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication should be directed to Mariano Sy at telephone number 703-308-3427.

 M. Sy

July 24, 2003

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
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